

Idaho Statutes

TITLE 53 PARTNERSHIP CHAPTER 5

ASSUMED BUSINESS NAMES

53-501. **SHORT TITLE.** This act shall be known and may be cited as "The Assumed Business Names Act of 1997."

53-502. **PURPOSE.** The purpose of this chapter is to ensure disclosure on the public record of the true names of persons who transact business in Idaho. Compliance with the provisions of this chapter does not confer any exclusive right to the use of an assumed business name in Idaho.

53-503. **DEFINITIONS.** When used in this chapter, the terms defined in this section shall have the following meanings:

- (1) "Assumed business name" shall mean:
 - (a) Any name other than the true name of any formally organized or registered entity, under which name the entity holds itself out for the transaction of business in the state of Idaho; or
 - (b) Any name under which any individual, any group of individuals or other persons, or any entity other than a formally organized or registered entity, holds itself out for the transaction of business in the state of Idaho, if that name does not include in full the true names of all individuals and other persons who have a financial interest in the business which is or may be transacted; which name shall not include words or abbreviations which falsely state or imply governmental affiliation or the existence of a formally organized or registered entity.
- (2) "Formally organized or registered entity" shall mean a legal entity which is created in, authorized to do business in, or given special powers or privileges by the state of Idaho or the federal government by virtue of filing its organizational document, application for authority to do business or registration statement with the secretary of state, the department of finance, the department of insurance, or an agency of the federal government, pursuant to law. Formally organized or registered entities include corporations, limited liability companies, limited partnerships, limited liability partnerships, foreign insurance companies, credit unions, national banks and other entities created pursuant to federal law.
- (3) "Foreign," as applied to a formally organized or registered entity, shall mean organized under the laws of a jurisdiction other than Idaho or the federal government.
- (4) "Individual" shall mean a natural person.
- (5) "Person" shall mean an individual, a trust or estate, a partnership, or a formally organized or registered entity.
- (6) "Transact business" shall mean to engage in any commercial or other activity which is intended to or likely to produce a financial benefit, whether it is for the purpose of profit to the person who engages in the activity or for the purpose of supporting a charitable, benevolent or other nonprofit function.
- (7) "True name" shall have the following meanings:
 - (a) When applied to a formally organized or registered entity, the name by which the entity is identified on its organizational document, application for authority to do business or registration statement which is on file with the appropriate governmental entity. As to a foreign formally organized or registered entity which has been required to adopt an assumed business name on its application for authority to do business or its registration statement as a condition of obtaining authority to do business in Idaho, the term "true name" shall include the assumed business name which appears on the application for authority to do business or registration statement.
 - (b) When applied to an individual, the name which the individual uses to bind himself or herself to legal obligations, or to obtain privileges, licenses or benefits from government. The true name will include the surname and some combination of given names or initials, and may include other identifiers such as "Jr.," "3d" or "III."

53-504. **FILING OF CERTIFICATE REQUIRED.**

- (1) Any person who proposes to or intends to transact business in Idaho under an assumed business name shall, before beginning to transact business, file with the secretary of state a certificate of assumed business name in a form prescribed by the secretary of state. The form may be in any medium permitted by the secretary of state. The certificate shall be executed for the person by an individual who has actual authority to bind the person to legal obligations.
- (2) A separate certificate of assumed business name must be filed for each assumed business name a person uses.

53-505. CONTENTS OF CERTIFICATE. The certificate of assumed business name shall include:

- (1) The assumed business name as it is used in the transaction of business;
- (2) The true names and business addresses of every person who has a financial or control interest in the business to be transacted under the assumed business name;
- (3) The general type of business to be transacted under the assumed business name, using categories prescribed on the form by the secretary of state; and
- (4) Other information as the secretary of state may require.

53-506. EFFECT OF FILING -- DURATION -- CONTINUATION.

- (1) A person may conduct business under an assumed business name if a certificate of assumed business name has been filed with the secretary of state and is in effect.
- (2) A certificate of assumed business name is in effect upon filing until canceled pursuant to section 53-508, Idaho Code.

53-507. AMENDMENT OF CERTIFICATE.

- (1) If the identity or business address of any person who has a financial or control interest in the business transacted under the assumed business name changes, or if the certificate of assumed business name becomes materially misleading in any other way, the person who transacts that business shall, within six (6) months thereafter, file with the secretary of state a certificate of amendment to the certificate of assumed business name in a form prescribed by the secretary of state. The form may be in any medium permitted by the secretary of state.
- (2) The certificate of amendment shall specify how the certificate of assumed business name is to be amended, and shall be executed in the same manner as required for a certificate of assumed business name.

53-508. CANCELLATION OF CERTIFICATE.

- (1) A person who discontinues use of an assumed business name may cancel its certificate of assumed business name by filing with the secretary of state a certificate of cancellation in a form prescribed by the secretary of state. The form may be in any medium permitted by the secretary of state.
- (2) The certificate of cancellation shall be executed in the same manner as required for a certificate of assumed business name.

53-509. CONSEQUENCES OF NONCOMPLIANCE.

- (1) Any person who transacts business in Idaho under an assumed business name without having complied with the requirements of this chapter shall not be entitled to maintain any legal action in the courts of this state until the person has filed a certificate of assumed business name as required by this chapter.
- (2) Any person who suffers a loss because of another person's noncompliance with the requirements of this chapter shall be entitled to recover damages in the amount of the loss, and attorney fees and costs incurred in connection with recovery of damages.
- (3) Noncompliance shall be held to include false, misleading or incomplete information in a certificate of assumed business name, as well as failure to file.

53-510. FEES. The secretary of state shall charge and collect fees for services under this chapter as follows:

- (1) For filing a certificate of assumed business name, twenty-five dollars (\$25.00).
- (2) For filing a certificate of amendment to a certificate of assumed business name, ten dollars (\$10.00).
- (3) For filing a certificate of cancellation of a certificate of assumed business name, no charge.
- (4) For issuance of certified copies and certificates of fact concerning filing of certificates of assumed business name and related documents, fees as provided in section 67-910, Idaho Code.